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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,282	12/05/2003	Thomas E. Whittlesey	9389-4	1598
7590 02/23/2007 Julie H. Richardson Myers Bigel Sibley & Sajovec Post Office Box 37428 Raleigh, NC 27627			EXAMINER PRICE, RICHARD THOMAS JR	
			ART UNIT 3643	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			02/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/729,282	<b>Applicant(s)</b> WHITTLESEY ET AL.	
	<b>Examiner</b> Thomas Price	<b>Art Unit</b> 3643	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1-17-2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-67 is/are pending in the application.
- 4a) Of the above claim(s) 30-67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1-11-07; 1-13-05; 12-05-03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claims 17-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 17, lines 12 and 13, "the casing horn" is unclear as to which "horn" the Applicant is referring to.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17, 21, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Nausedas (US Patent 4,991,260).

Nausedas teaches an apparatus with interchangeable horns for engaging a fill/product pump and supply elongate casings for encasing products therein. A housing or manifold 12 includes a support structure and opposing upstream and downstream end portions. A first horn 24 or 28, etc is releasably mounted to the housing support structure, the first horn 24 including a length, an outer surface and an internal flow channel therein. The first horn is configured to direct casing material 40 to travel over the outer surface while product travels through the internal flow channel. A horn rotor assembly 20 is releasably mounted to the housing support structure. The horn rotor

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assembly 20 includes a pivotable casing horn with an outer surface and an intermediate pipe segment 14 or 16. Each having a respective internal flow channel therein. As for claim 21, the intermediate pipe segment and the first horn are configured to serially mount to the housing support structure so that in position, each is aligned therein to have substantially the same axially extending centerline. Regarding claim 26, a shirred voiding/clipping apparatus 48 or 50 is provided serially downstream of the first horn. In regards to claim 27, the first horn and the horn rotor assembly are serially mountable to the housing so that either the first horn or intermediate pipe is in fluid communication with a filler/product pump disposed upstream of the housing.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nausedas (US Patent 4,991,260).

Nausedas does not discuss a seamed tubular elastomeric film only an unseamed elastomeric film. In regards to claim 25, the use of a seamed elastomeric film would have been obvious to a person of ordinary skill in the art at the time the invention was made because both types of casing materials are believed to be structurally equivalent and commonly used in the sausage making field.

***Allowable Subject Matter***

Claims 18-20, 22-24, 28 and 29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 571-272-6892. The examiner can normally be reached on M-F from 6:30a.m. to 3:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Thomas Price  
Primary Examiner GAU: 3643  
February 19, 2007